

NORTH CAROLINA GENERAL ASSEMBLY



AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION

REPORT TO THE 2018 SESSION of the 2017 GENERAL ASSEMBLY OF NORTH CAROLINA

APRIL 17, 2018

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TABLE OF CONTENTS

LETTER OF TRANSMITTAL.....	5
COMMISSION MEMBERSHIP	7
STATUTORY AUTHORITY	9
COMMISSION PROCEEDINGS.....	11
LEGISLATIVE PROPOSALS	19

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TRANSMITTAL LETTER

April 17, 2018

[\[Back to Top\]](#)

TO THE MEMBERS OF THE 2018 REGULAR SESSION
OF THE 2017 GENERAL ASSEMBLY

Pursuant to Article 19 of Chapter 120 of the General Statutes, the **AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION**, respectfully submits the following report to the 2018 Regular Session of the 2017 General Assembly.

Sen. Bill Cook (Co-Chair)

Rep. Mark Brody (Co-Chair)

Sen. Brent Jackson (Co-Chair)

Rep. Jimmy Dixon (Co-Chair)

Sen. Norman W. Sanderson (Co-Chair)

Rep. Kyle Hall (Co-Chair)

Sen. Andy Wells (Co-Chair)

Rep. Bob Steinburg (Co-Chair)

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COMMISSION MEMBERSHIP

[\[Back to Top\]](#)

2017-2018

Co-Chairs

[Rep. Mark Brody](#)

Ex Officio

[Rep. Jimmy Dixon](#)

Ex Officio

[Rep. Kyle Hall](#)

House Appointment

[Rep. Bob Steinburg](#)

Ex Officio

[Sen. Bill Cook](#)

Ex Officio

[Sen. Brent Jackson](#)

Senate Appointment

[Sen. Norman W. Sanderson](#)

Ex Officio

[Sen. Andy Wells](#)

Ex Officio

Ex Officio Members

Mr. Jimmy Gentry

Ex Officio

Mr. Boyd McLaurin

Ex Officio

Mr. Mitchell A. Peele

Ex Officio

Mr. Michael S. Regan

Ex Officio

Hon. Steven Troxler

Ex Officio

Public Members

Mr. Albert C. Beatty

Governor's Appointment

Mr. Maurice K. Berry, Jr.

Other Appointment

Mr. David L. Burns

Governor's Appointment

Ms. Donald Butler

Senate Appointment

Ms. Sue M. Gray

House Appointment

Mr. C. Howard Isley

House Appointment

Mr. Danny McConnell

Senate Appointment

Mr. Melvin M. Mitchell

Governor's Appointment

Mr. Sherwood Padgett

Senate Appointment

Ms. Alice H. Scott

House Appointment

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STATUTORY AUTHORITY

[\[Back to Top\]](#)

Article 19.

Agriculture and Forestry Awareness Study Commission.

§ 120-150. Creation; appointment of members.

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

- (1) Three appointed by the Governor.
- (2) Three appointed by the President Pro Tempore of the Senate.
- (3) Three appointed by the Speaker of the House.
- (4) The chairs of the House Agriculture Committee.
- (5) The chairs of the Senate Committee on Agriculture, Environment, and Natural Resources.
- (6) The Commissioner of Agriculture or the Commissioner's designee.
- (7) A member of the Board of Agriculture designated by the chair of the Board of Agriculture.
- (8) The President of the North Carolina Farm Bureau Federation, Inc., or the President's designee.
- (9) The President of the North Carolina State Grange or the President's designee.
- (10) The Secretary of Environmental Quality or the Secretary's designee.
- (11) The President of the North Carolina Forestry Association, Inc., or the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochaIRS. The President Pro Tempore of the Senate and the Speaker of the House of Representatives may each appoint an additional member of the Senate and House, respectively, to serve as cochair. If appointed, these cochaIRS shall be voting members of the Commission.

§ 120-151. Advisory Committee.

Upon proper motion and by a vote of a majority of the members present, the Commission may appoint an Advisory Committee. Members of the Advisory Committee should be from the various organizations, commodity groups, associations, and councils representing agriculture and forestry. The purpose of the Advisory Committee shall be to render technical advice and assistance to the Commission. The Advisory Committee shall consist of no more than 20 members plus a chairman who shall be appointed by the cochairmen of the Commission.

§ 120-152. Subsistence and travel expenses.

The members of the Commission who are members of the General Assembly shall receive subsistence and travel allowances at the rate set forth in G.S. 120-3.1. Members who are officials or employees of the State of North Carolina shall receive subsistence and travel allowances at the rate set forth in G.S. 138-6. All other members plus the Chairman of the Advisory Committee shall be paid the per diem allowances at the rates set forth in G.S. 138-5.

Other members of the Advisory Committee shall serve on a voluntary basis and not receive subsistence and travel expenses.

§ 120-153. Facilities and staff.

The Commission may hold its meetings in the State Legislative Building with the approval of the Legislative Services Commission. The Legislative Services Commission shall provide necessary professional and clerical assistance to the Commission.

§ 120-154. Duties.

The Commission shall bring to the attention of the General Assembly the influence of agriculture and forestry on the economy of the State, develop alternatives for increasing the public awareness of agriculture and forestry, study the present status of agriculture and forestry, identify problems limiting future growth and development of the industry, develop an awareness of the importance of science and technological development to the future of agriculture and forestry industries, and formulate plans for new State initiatives and support for agriculture and forestry and for the expansion of opportunities in these sectors.

In conducting its study the Commission may hold public hearings and meetings across the State.

The Commission shall report to the General Assembly at least one month prior to the first regular session of each General Assembly.

COMMISSION PROCEEDINGS

[\[Back to Top\]](#)

The Agriculture and Forestry Awareness Study Commission met three times after the 2017 Regular Session. The following is a brief summary of the Commission's proceedings. Detailed minutes and information from each Commission meeting are available in the Legislative Library.

AGENDA

1:00 p.m. Tuesday, January 30, 2018

Room 544, Legislative Office Building,
Raleigh, NC

1. Call to order
Representative Kyle Hall, Presiding
2. Introductory Remarks by Co-Chairs
3. Presentation on property tax abatement for aging farm machinery
Tony Simpson, Director, Property Tax Section
Department of Revenue
4. Overview of the North Carolina Handler's Act
Dr. Richard Reich, Assistant Commissioner for Agricultural Services
Department of Agriculture and Consumer Services
5. Overview of the federal Perishable Agricultural Commodities Act
Basil Coale, Regional Director, Eastern Regional Office
Agricultural Marketing Service, Specialty Crops Program, PACA Division
United States Department of Agriculture
6. Committee discussion and announcements
7. Adjourn

The first meeting of the Agriculture and Forestry Study Awareness Commission was held on Tuesday, January 30, 2018 at 1:00 p.m. in Room 544 of the Legislative Office Building. Representative Kyle Hall presided.

Ms. Cindy Avrette, Staff Attorney, Legislative Analysis Division, presented an introduction to property tax in North Carolina, which included how the tax is levied, how it was created, and how it can be changed.

Mr. Tony Simpson, Director, Property Tax Section, Department of Revenue (DOR), presented on property tax abatement for aging farm machinery, particularly tractors. The presentation was based on a study conducted by the Property Tax Section, and estimated that complete abatement of property tax on aging machinery would result in \$17 million of lost tax revenue.

County response for the study was low, so the Section had to supplement data on equipment inventory and value with USDA census information. Rather than a complete abatement, Mr. Simpson recommended extending the depreciation schedule on tractors from 8 to 12 years.

The Commission discussed how aging farm equipment is valued and depreciated. The Commission also discussed how counties are not required to follow DOR's depreciation schedule, but may use different methods to determine property tax. The Commission wanted to ensure that any changes to property tax calculations would move towards a simpler, more equitable tax scheme. Mr. Simpson promised to look into expanding the scope of the study, and returning to the Commission with more information and recommendations.

Dr. Richard Reich, Assistant Commissioner for Agricultural Services, Department of Agriculture and Consumer Services, presented on the North Carolina Food Handler's Act. In North Carolina, the Handler's Act applies only to written, not spot, contracts, and affects primarily cucumber and sweet potato sales. As of Dr. Reich's presentation, only 19 companies have received permits under the NC Handler's Act. The fine for failing to obtain a permit is \$25.

The Commission discussed removing the written contract requirement from the Handler's Act to bring the Act in line with other states' acts. The Commission also discussed whether the Handler's Act promotes food safety, the purpose for the Handler's Act, and how the Handler's Act was being promoted to industry. The Commission urged the Department to look into fixing the Handler's Act.

Mr. Basil Coale, Regional Director, United States Department of Agriculture, presented on the Perishable Agricultural Commodities Act (PACA), via phone. The presentation gave a thorough overview of PACA's purpose, authority, and history. Mr. Coale also walked the Commission through PACA's dispute resolution process.

While there were no direct questions for Mr. Coale, the Commission discussed PACA's role in the industry, and expressed a hope that the NC Handler's Act could be reshaped to capture the regulatory gaps in PACA.

AGENDA

1:00 p.m. Thursday, March 22, 2018
Room 544, Legislative Office Building,
Raleigh, NC

1. Call to order
Senator Brent Jackson, Presiding
2. Introductory remarks by Co-Chairs
3. Department of Revenue recommendations on property tax abatement for aging farm machinery (*15 minutes*)
Tony Simpson, Director, Property Tax Section
Department of Revenue
4. Comments on property tax abatement for aging farm machinery (*10 minutes*)
David Baker, Director of Tax and Revenue Outreach
North Carolina Association of County Commissioners
5. Department of Agriculture recommendations for changes to the North Carolina Handler's Act (*15 minutes*)
Laura Kilian, Legislative Liaison
Department of Agriculture and Consumer Services
6. Update on activities of the Industrial Hemp Commission (*30 minutes*)
Laura Kilian, Legislative Liaison
Department of Agriculture and Consumer Services
7. Update on federal Food Safety Modernization Act implementation (*30 minutes*)
Joe Reardon, Assistant Commissioner for Consumer Protection
Department of Agriculture and Consumer Services
8. Committee discussion and announcements
9. Adjourn

The second meeting of the Agriculture and Forestry Study Awareness Commission was held on Thursday, March 22, 2018 at 1:00 p.m. in Room 544 of the Legislative Office Building. Senator Brent Jackson presided.

Mr. Tony Simpson, Director, Property Tax Section, Department of Revenue (DOR), updated the Commission on the Section's property tax abatement study. The Property Tax Section expanded the study to look at all aging farm equipment, and had input from several counties. DOR proposed moving to a single schedule for all aging farm equipment, using a 10-year lifespan with a 25% residual value.

The Commission discussed the scope of the study, comparing the estimated tax loss of total abatement against the proposed DOR schedule, and the variation between counties in valuing aging farm equipment.

Ms. Amber Harris, North Carolina Association of County Commissioners, delivered a short statement to the Commission that the Association was opposed to any reduction to a county's tax base, and is open to work with counties to provide DOR more information for its study. She also said that the Association would review DOR's proposed depreciation schedule.

Ms. Laura Kilian, Legislative Liaison, Department of Agriculture and Consumer Services, presented the Department's proposal for changes to the North Carolina Handler's Act. The proposed changes would comprehensively change the Act, including expanding "handler" to include spot contracts, creating a sliding-scale surety bond, adding yearly renewal requirements, penalties for noncompliance, and additional changes.

The Commission discussed the extended scope of the proposed Handler's Act, and whether there should be additional exemptions for small-scale buyers of agricultural products.

Commissioner Steve Troxler, Department of Agriculture and Consumer Services, indicated that the proposed changes strike a balance between encouraging business, protecting North Carolina farmers, and updating North Carolina's version of the Handler's Act to match neighboring state schemes.

Mr. Robert Mays, Legislative Liaison, North Carolina Department of Insurance, delivered a brief statement to the Commission, and noted that the Department does not currently have all of the mechanisms in place to support the proposed changes, but was willing to work with the Department of Agriculture and Consumer Services to ensure that the proposed changes are effective.

Ms. Laura Kilian, Legislative Liaison, Department of Agriculture and Consumer Services, then presented on the Department's Industrial Hemp Pilot Program. Overall, the program has seen some success, but the industry is slow to grow due to uncertainty over federal drug laws and concern for the future of the industry. Ms. Kilian shared with the Commission lessons learned when testing hemp for compliance, as well as policies adopted when destroying noncomplying product.

The Commission discussed ensuring that noncompliant hemp was properly destroyed, whether and to what extent noncompliant hemp could occur naturally, what actions, if any, are taken against growers of noncompliant hemp, and how the hemp is destroyed. The Commission also discussed whether it was possible to test the seed for compliance before growing the crop, where the majority of North Carolina's hemp seed is imported from, and which sectors of the hemp industry are seeing the most growth.

Mr. Joe Reardon, Assistant Commissioner, Department of Agriculture and Consumer Services, updated the Commission on implementation of the Food Safety Modernization Act (FSMA). Mr. Reardon reported that FSMA's importance is growing, as demand for foreign food products grows and our population becomes more vulnerable to foodborne illness. The Department is working with North Carolina State University and others to implement FSMA in a uniform, consistent, and productive manner.

The Commission discussed on how the State's demand for foreign seafood has changed and will change in the future, the benefits of FSMA certification to farmers, the FSMA inspection training and process, and required testing. The Commission also asked the Department of

Agriculture and Consumer Services to provide the Secretary's Science Advisory Board with input as the Board works to develop health goals for the emerging contaminant GenX.

AGENDA

1:00 p.m. Tuesday, April 17, 2018
Legislative Office Building, Room 544
Raleigh, NC

1. Call to order
Representative Brody, Presiding
2. Introductory remarks by Co-Chairs
3. Approval of minutes from the January 30, 2018, and March 22, 2018, meetings of the Commission
4. Industry perspective of the State's industrial hemp program (*30 minutes*)
Bob Crumley, Chairman
North Carolina Industrial Hemp Association
5. Overview of Department of Agriculture and Consumer Services Standards Division and price-scanning inspection program (*30 minutes*)
Steve Benjamin, Standards Division Director
Department of Agriculture and Consumer Services
6. Department of Agriculture recommendation regarding confidentiality of certain reports (*10 minutes*)
Laura Kilian, Legislative Liaison
Department of Agriculture and Consumer Services
7. Approval of Committee Report
8. Committee discussion and announcements
9. Adjourn

The third meeting of the Agriculture and Forestry Study Awareness Commission was held on Tuesday, April 17, 2018 at 1:00 p.m. in Room 544 of the Legislative Office Building. Representative Mark Brody presided.

Before presentations began, the Commission approved the January and March minutes.

Mr. Bob Crumley, Chairman, North Carolina Industrial Hemp Association, presented on the state of the industrial hemp industry in North Carolina. Mr. Crumley was joined throughout the presentation by Mr. Blake Butler, Founder, HempX, Mr. Gary Sykes, President, Bio-Regen, and Ms. Marty Clemons, President, North Carolina Industrial Hemp Association.

The Commission discussed the State's suitability for growing hemp, pending federal hemp legislation, how farmers can legally participate in the industrial hemp industry, cost and funding for food-grade seed cleaning facilities, and how to alleviate the stigma associated with industrial hemp.

Mr. Steve Benjamin, Standards Division Director, Department of Agriculture and Consumer Services, presented on the Department's price-scanning inspection program.

The Commission discussed gasoline pricing, how the Department ensures accuracy of large scales, and concerns about accuracy in timber weights.

Ms. Laura Kilian, Legislative Liaison, Department of Agriculture and Consumer Services, presented on the Department's legislative recommendation concerning confidentiality of certain reports.

Mr. Chris Saunders, Commission Counsel, presented an overview of the Commission Report, as well as a summary of Bill Draft 2017-TQ-34 [v.6] included below, on page 19.

The Commission discussed the timetable for inspections under the Handler's Act, the scope of the Handler's Act, potential exemptions, and potential revisions to the legislative proposals.

The Commission adopted this Report.

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LEGISLATIVE PROPOSALS

[\[Back to Top\]](#)

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

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BILL DRAFT 2017-TQ-34 [v.6]

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
04/10/2018 12:40:23 PM**

Short Title: NC Farm Act of 2018.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL LAWS.
3 The General Assembly of North Carolina enacts:
4 **SECTION 1.** Article 44 of Chapter 106 of the General Statutes reads as rewritten:
5 "Article 44.
6 "Unfair Practices by Handlers of Fruits and Vegetables.
7 **"§ 106-496. Protection against unfair trade practices.**
8 The Board of Agriculture is hereby authorized to ~~make adopt~~ such rules and regulations as it
9 deems necessary to protect producers of fruits and vegetables from loss caused by financial
10 irresponsibility and unfair, harmful or unethical trade practices of handlers who incur financial
11 liability for the purchase or production of fruits and vegetables. A "handler," as used herein, is a
12 person, firm, corporation or other legal entity or his agent or employee who enters into a written
13 contract for the purchase from or production by a producer of fruits and vegetables.
14 **"§ 106-496.1. Definitions.**
15 For the purposes of this Article, the following definitions apply:
16 (1) "Certificate of deposit" means a certificate of deposit at any recognized financial
17 institution doing business in the United States.
18 (2) "Commissioner" means the North Carolina Commissioner of Agriculture.
19 (3) "Consignment" means any transfer of fruits and vegetables by the seller to the custody
20 of another person who acts as the agent for the seller for the purpose of selling such fruits and
21 vegetables.
22 (4) "Department" means the North Carolina Department of Agriculture and Consumer
23 Services.
24 (5) "Handler" means any person in the business of buying, receiving, selling, exchanging,
25 negotiating, processing for resale, or soliciting the sale, resale, exchange, or transfer of any fruits
26 and vegetables purchased from a producer, received on consignment from a producer, or received
27 to be handled on a net return basis from a producer.

1 (6) "Net return basis" means a purchase for sale of fruits and vegetables from a producer
2 or shipper at an unfixed or unstated price at the time the fruits and vegetables are shipped from
3 the point of origin, and which shall include all purchases made "at the market price," "at net
4 worth," and on similar terms, which indicate that the buyer is the final arbiter of the price to be
5 paid.

6 (7) "Person" means a natural person, firm, corporation, or other legal entity.

7 (8) "Processor" means any person operating any plant in this State that freezes,
8 dehydrates, cans, or otherwise changes the physical form or characteristics of fruits and
9 vegetables.

10 (9) "Producer" means any person who produces fruits or vegetables, or both, in North
11 Carolina.

12 (10) "Restaurant" means a facility that prepares and sells food directly to consumers for
13 immediate consumption. The term "restaurant" does not include facilities that provide food to
14 interstate conveyances, central kitchens, and other similar facilities that do not prepare and serve
15 food directly to consumers.

16 (11) "Retail establishment" means an establishment that sells fruits and vegetables directly
17 to consumers as its primary function. A retail establishment's primary function is to sell fruits
18 and vegetables directly to consumers if the annual monetary value of sales of fruits and
19 vegetables directly to consumers exceeds the annual monetary value of sales of fruits and
20 vegetables to all other buyers. The term "consumers" does not include businesses.

21 **"§ 106-497. Permits Annual license required.**

22 ~~A handler of fruits and vegetables shall not enter into a written contract with a producer until~~
23 ~~he obtains a written permit from the Commissioner of Agriculture. The Board of Agriculture may~~
24 ~~prescribe by regulation the form of the application for a permit, the information to be furnished~~
25 ~~to the Commissioner by the applicant for a permit and the date for filing the application. A permit~~
26 ~~shall not be issued until the applicant files on or before the date set by the Board a written request~~
27 ~~with the Commissioner and files with the request two copies of the applicant's proposed contract.~~
28 ~~A penalty of twenty-five dollars (\$25.00) shall be paid by the applicant if the application is filed~~
29 ~~after the date established by the Board and no permit shall be issued until such penalty is paid.~~
30 ~~Any penalties collected by the Commissioner shall be used to help defray the costs of~~
31 ~~administering Article 44 of Chapter 106.~~

32 ~~This Article shall not apply to transactions by a handler with a producer on a cash basis.~~
33 ~~"Cash" as used herein shall include bank bills, checks drawn on banks and bank notes.~~

34 It shall be unlawful for any handler of fruits and vegetables who acts within the scope of this
35 Article to engage in business as a handler without an annual license issued by the Commissioner.

36 **"§ 106-497.1. Application for annual license.**

37 (a) Every handler of fruits and vegetables desiring to transact business in this State shall
38 file an application for an annual license with the Commissioner.

39 (b) The Board of Agriculture may prescribe by rule the form of the application, the
40 information to be furnished to the Commissioner by the applicant for an annual license, and the
41 date for filing the application.

42 (c) An applicant for an annual license shall pay an initial or renewal license fee, as set by
43 rule by the Board of Agriculture but not to exceed five hundred dollars (\$500), with each
44 application. The applicant shall pay an administrative late fee, as set by rule by the Board of
45 Agriculture but not to exceed two hundred fifty dollars (\$250), if the application is filed after the
46 date established by the Board of Agriculture and the Commissioner shall not issue the license
47 until the penalty is paid. Any fees collected by the Commissioner shall be used to help defray the
48 costs of administering this Article.

49 **"§ 106-497.2. Denial, suspension, or revocation of license.**

1 The Commissioner may decline to grant a license or may suspend or revoke a license already
2 granted if the Commissioner is satisfied that the applicant or licensee has:

- 3 (1) Suffered a money judgment which that person cannot satisfy or is otherwise
4 insolvent or financially irresponsible.
5 (2) Made false charges for handling or services rendered.
6 (3) Failed to promptly and properly account and pay any producer.
7 (4) Made any false statement or statements as to the condition, quality, or quantity
8 of goods received or held for sale when that person could have ascertained the
9 true condition, quality, or quantity by reasonable inspection.
10 (5) Made any false or misleading statement or statements as to market conditions
11 or service rendered.
12 (6) As a handler, hired a person who has been convicted of a crime involving
13 fraud, deceit, or misrepresentation in any capacity involving the buying,
14 selling, or the handling of payments for fruits and vegetables.
15 (7) As a handler, failed either to file the required surety bond or certificate of
16 deposit or to keep such surety bond or certificate of deposit in force.
17 (8) Provided false or misleading information in the person's application for
18 license.
19 (9) Failed to comply with the terms of this Article or any rules adopted by the
20 Board of Agriculture.

21 **"§ 106-498. Bond-Surety bond or certificate of deposit required.**

22 No permit shall be issued to a handler until such handler has furnished the Commissioner of
23 Agriculture a bond satisfactory to the Commissioner in an amount of not less than ten thousand
24 dollars (\$10,000). The Commissioner may require a new bond or he may require the amount of
25 any bond to be increased if he finds it necessary for the protection of the producer. Such bond
26 shall be payable to the State and shall be conditioned upon the fulfilling of all financial
27 obligations incurred by the handler with all producers with whom the handler contracts. Any
28 producer alleging any injury by the fraud, deceit, willful injury or failure to comply with the
29 terms of any written contract by a handler may bring suit on the bond against the principal and
30 his surety in any court of competent jurisdiction and may recover the damages found to be caused
31 by such acts complained of.

32 (a) Before any license is issued, the applicant shall make and deliver to the Commissioner
33 a surety bond executed by a surety corporation authorized to transact business in this State and
34 approved by the Commissioner or a certificate of deposit approved by the Commissioner. No
35 certificate of deposit may be accepted unless the issuing institution is properly insured by either
36 the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance
37 Corporation.

38 (b) The surety bond or certificate of deposit to secure the faithful performance of that
39 person's obligations as a handler shall be based on the maximum amount of gross business the
40 applicant did in any month in this State during the preceding licensing year, or an estimate for
41 the upcoming licensing year if the applicant did not engage in business as a handler in this State
42 during the preceding year, and in accordance with the following schedule:

<u>Maximum Monthly Gross Business</u>	<u>Bond or Deposit Required</u>
<u>Up to \$25,000.....</u>	<u>\$25,000</u>
<u>\$25,001 to \$50,000.....</u>	<u>\$50,000</u>
<u>\$50,001 to \$75,000.....</u>	<u>\$75,000</u>
<u>\$75,001 to \$100,000.....</u>	<u>\$100,000</u>
<u>\$100,001 to \$125,000.....</u>	<u>\$125,000</u>
<u>\$125,001 to \$150,000.....</u>	<u>\$150,000</u>
<u>\$150,001 to \$175,000.....</u>	<u>\$175,000</u>

1	\$175,001 to \$200,000.....	\$200,000
2	\$200,001 to \$225,000.....	\$225,000
3	\$225,001 or More.....	\$250,000

4 (c) Surety bonds and certificates of deposit shall have such surety or sureties, or financial
5 institution or financial institutions, subject to service of process in suits on the surety bond or
6 certificate of deposit within this State and shall contain such terms and conditions as the
7 Commissioner may prescribe to carry out the purposes of this Article.

8 (d) Whenever the Commissioner determines that a previously approved surety bond or
9 certificate of deposit has for any reason become insufficient, the Commissioner may require in
10 writing an additional surety bond or certificate of deposit to be given, conforming to the
11 requirements of this Article. Unless the additional surety bond or certificate of deposit is given
12 within the time stated in the Commissioner's demand, or if the surety bond or certificate of deposit
13 of a handler is canceled, the person's license shall be immediately revoked without notice or
14 hearing.

15 **"§ 106-498.1. Action on surety bond or certificate of deposit by producer injured.**

16 Any producer claiming to be injured by nonpayment, noncompliance with the terms of a
17 contract, fraud, deceit, negligence, or other misconduct of a handler may sue the handler and his
18 or her sureties upon the surety bond or certificate of deposit in that producer's name in any court
19 of competent jurisdiction to recover the damages that person may have sustained by such breach
20 without any assignment thereof by the Department or the State.

21 **"§ 106-498.2. Inspection of spoiled, damaged, unmarketable, or unsatisfactory produce**
22 **before sale.**

23 Whenever fruits and vegetables are shipped to or received by a handler for handling,
24 purchase, or sale in this State, and the handler finds such produce to be in a spoiled, damaged,
25 unmarketable, or unsatisfactory condition, the Department may provide inspection services and
26 execute and deliver a certificate stating the day and the time and place of such inspection and the
27 condition of such produce, and mail or deliver a copy of such certificate to both the handler and
28 producer. The Department may charge and collect fees in accordance with the United States
29 Department of Agriculture laws and rules and the Department's cooperative grading service
30 agreement with the United States Department of Agriculture.

31 **"§ 106-499. Contracts between handlers and producers; approval of Commissioner.**

32 All contracts filed with the Commissioner by an applicant shall be approved by the
33 Commissioner before a permit is issued. The Commissioner may withhold his approval in his
34 discretion if he is of the opinion that the contract is illegal or unfair to the producer, or that the
35 contractor is insolvent or financially irresponsible, or if for any other cause it reasonably appears
36 to him that the contract in question might defeat the purpose of this Article.

37 **"§ 106-500. Additional powers of Commissioner to enforce Article.**

38 (a) In order to enforce this Article, the Commissioner of Agriculture, upon his
39 Commissioner's own motion or upon the verified complaint of any producer, shall have the
40 following additional powers:

- 41 (1) To inspect or investigate transactions for the sale or delivery of fruits and
42 vegetables to persons acting as handlers; to require verified reports and
43 accounts of all authorized handlers; to examine books, accounts, memoranda,
44 equipment, warehouses, storage, transportation and other facilities, fruits and
45 vegetables and other articles connected with the business of the handlers; to
46 inquire into failure or refusal of any handlers to accept produce under his
47 contracts and to pay for it as agreed; agreed.
- 48 (2) To hold hearings after due notice to interested parties and opportunity to all to
49 be heard; to administer oaths, take testimony and issue subpoenas; to require
50 witnesses to bring with them relevant books, papers, and other evidence; to

1 ~~compel testimony; to make written findings of fact and on the basis of these~~
2 ~~findings to issue orders in controversies before him, and to revoke the permits~~
3 ~~of persons disobeying the terms of this Article or of rules, regulations, and~~
4 ~~orders made by the Board or the Commissioner. Any party disobeying any~~
5 ~~order or subpoena of the Commissioner shall be guilty of contempt, and shall~~
6 ~~be certified to the superior court for punishment. Any party may appeal to the~~
7 ~~superior court from any final order of the Commissioner;~~ To suspend or revoke
8 the licenses of persons disobeying the terms of this Article or of rules adopted
9 by the Board of Agriculture.

10 (3) To issue all such rules and regulations, with the approval of the Board, and to
11 appoint necessary agents and to do all other lawful things necessary to carry
12 out the purposes of this Article.

13 (4) ~~This Article will not apply to peanuts and corn grown under contract for seed~~
14 ~~purposes.~~ In addition to the remedies provided in this Article and
15 notwithstanding the existence of any adequate remedy at law, the
16 Commissioner is authorized to apply to any court of competent jurisdiction,
17 and that court shall have jurisdiction upon hearing and for cause shown to
18 grant a temporary or permanent injunction, or both, restraining any person
19 from violating or continuing to violate any of the provisions of this Article or
20 any rule or regulation promulgated thereunder. The injunction shall be issued
21 without bond.

22 (b) For the purposes specified in subsection (a) of this section, the Commissioner or the
23 Commissioner's agents may examine the ledgers, books of accounts, memoranda, and other
24 documents which relate to the transaction involved, at the place or places of business of the
25 applicant or licensee, and may take testimony under oath.

26 **"§ 106-501. Violation of Article or rules made misdemeanor.**

27 Any person who violates the provisions of this Article or the rules ~~and regulations~~
28 ~~promulgated adopted~~ thereunder shall be guilty of a Class 1 misdemeanor.

29 **"§ 106-501.1. Civil penalty.**

30 The Commissioner may assess a civil penalty of not more than five thousand dollars (\$5,000)
31 per violation against any person or business entity who violates a provision of this Article or any
32 rule adopted thereunder. In determining the amount of the penalty, the Commissioner shall
33 consider the degree and extent of harm caused by the violation. The clear proceeds of civil
34 penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture
35 Fund in accordance with G.S. 115C-457.2.

36 **"§ 106-501.2. Exceptions.**

37 This Article does not apply to:

- 38 (1) Farmers or groups of farmers in the sale of fruits and vegetables grown by
39 themselves.
40 (2) Restaurants and retail establishments.
41 (3) A handler of fruits and vegetables who pays at the time of purchase with
42 United States cash currency or a cash equivalent, such as a money order,
43 cashier's check, wire transfer, electronic funds transfer, or PIN-based debit
44 transaction, or who pays with a credit card.
45 (4) Handlers who purchase less than one thousand dollars (\$1,000) worth of fruits
46 and vegetables from North Carolina producers or their designees during the
47 peak month of such purchases within the calendar year.
48 (5) A handler to the extent that the handler purchases fruits and vegetables from
49 a producer that is owned by the handler or if the handler is owned by the
50 producer, or if both the handler and producer are owned by the same person.

1 (6) Fruits and vegetables grown under contract for seed purposes.

2 **"§ 106-501.3. Bankruptcy.**

3 Nothing in this Article shall be construed to relieve a surety company or financial institution
4 from responsibility for payment on properly established complaints against handlers involved in
5 a federal bankruptcy proceeding."

6 **SECTION 2.** G.S. 106-24.1 reads as rewritten:

7 **"§ 106-24.1. Confidentiality of information collected and published.**

8 All information published by the Department of Agriculture and Consumer Services pursuant
9 to this Part shall be classified so as to prevent the identification of information received from
10 individual farm operators. All information generated by any federal agency received pursuant to
11 this ~~Part~~ Chapter that is confidential under federal law shall be held confidential by the
12 Department and its ~~employees~~ employees, unless confidentiality is waived by the federal agency.
13 All information collected by the Department from farm owners or animal owners, including, but
14 not limited to, certificates of veterinary inspection, animal medical records, laboratory reports
15 received or generated from samples submitted for analysis, or other records that may be used to
16 identify a person or private business entity subject to regulation by the Department shall not be
17 disclosed without the permission of the owner unless the State Veterinarian determines that
18 disclosure is necessary to prevent the spread of an animal disease or to protect the public health,
19 or the disclosure is necessary in the implementation of these animal health programs."

20 **SECTION 3.** Section 1 of this act becomes effective January 1, 2019. The remainder
21 of this act is effective when it becomes law.